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Sen. Rose Antich
Sen. Vi Simpson
Sen. Samuel Smith
Rep. Charlie Brown
Rep. William Crawford
Rep. Susan Crosby
Rep. Mary Kay Budak
Rep. Gary Dillon
Rep. David Frizzell



SELECT JOINT COMMISSION ON MEDICAID OVERSIGHT

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MEETING MINUTES¹

Meeting Date: August 9, 2001
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington
St., Senate Chambers
Meeting City: Indianapolis, Indiana
Meeting Number: 1

Members Present: Sen. Patricia Miller, Chairperson; Sen. Robert Meeks; Sen. Rose Antich; Sen. Vi Simpson; Sen. Samuel Smith; Rep. Charlie Brown; Rep. Mary Kay Budak; Rep. Gary Dillon; Rep. David Frizzell.

Members Absent: Sen. Steve Johnson; Rep. William Crawford; Rep. Susan Crosby.

Senator Patricia Miller, Chairperson, called the first meeting of the Select Joint Commission on Medicaid Oversight to order at about 10:15 a.m. Senator Miller introduced the Commission members.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Update from EDS

Ms. May Rifka, EDS, Executive Director, Business Process Management

Ms. May Rifka provided the Commission with a summary and analysis of the Medicaid claims processed by EDS for SFY 2001 and the first quarter of SFY 2002. (See Exhibit 1). Information found in Exhibit 1 includes an analysis of Indiana's Medicaid dental services delivery system. Exhibit 1 also contains a summary for SFY 1995 through 2001 of the: (1) dollars paid, (2) claims paid, (3) claims denied, (4) claims adjusted, (5) number of eligible recipients, (6) number of receiving recipients, (7) number of enrolled providers, and (8) number of participating providers.

Ms. Rifka informed the committee that EDS is working on an innovative new program for Indiana that would allow providers to query Medicaid claims over the worldwide web. This program will be piloted in September and is one of the first of its kind in the country. Medicaid providers would have the ability to access claims on the web and correct any existing errors. Providers would also be able to verify eligibility and gather policy information over the web. EDS hopes that some day this system will also allow providers to submit claims via the web.

Ms. Rifka responded to a question regarding the adjusted claim data in Exhibit 1, stating that the adjustments are for previously paid claims. Ms. Rifka explained that if a doctor submits a claim that is paid by EDS but later determines that a different code should have been submitted, the doctor may submit the new code for an adjustment of the claim and be paid the difference between the original claim and the new adjusted claim.

Responding to a question regarding the decrease in time taken to pay a claim, Ms. Rifka stated that an upgrade in equipment has allowed EDS to pay claims faster.

Medicaid Budget Status and Proposed Medicaid Rules

Kathy Gifford, Assistant Secretary, Office of Medicaid Policy and Planning (OMPP)

Ms. Kathy Gifford provided an overview of OMPP's budget and proposed rule changes (See Exhibits 2 and 3). Ms. Gifford stated that since an April 18, 2001, budget bill conference committee meeting in which she told the legislature the amount of state money OMPP would need for the next two years, bills were passed during the 2001 legislative session (i.e. HEA 1001, HEA 1938, HEA 1950 and SEA 561) that developed new programs that will affect Medicaid's budget (See Exhibit 2 for more details). Ms. Gifford explained to the Commission that OMPP is trying to design a program to maximize its resources.

Ms. Gifford stated that the court decision in Day v. Humphreys will also have a significant economic impact on OMPP. The Day decision expands the eligibility criteria for disability Medicaid and requires retroactive relief, possibly dating as far back as 1993. Ms. Gifford commented that there could be as many as 20,000 individuals affected by the Day decision. In response to a question about other pending lawsuits, Ms. Gifford stated that there are at least 2 class action lawsuits pending in Indiana resulting from the U.S. Supreme Court's Olmstead decision.

Responding to a question, Ms. Gifford explained that the reflection in the EDS data (See Exhibit 1) that an increase in expenditures occurred when there was not a huge increase in the number of recipients resulted from an increase in recipient utilization as well as an increase in the cost of prescription drugs.

Ms. Gifford discussed the cost containment measures OMPP proposed for nursing facilities, stating that the rules attempt to reduce the costs of nursing facilities by 5%. Ms. Gifford stated that OMPP has met with representatives of the nursing home industry eight times to discuss the proposed rules and that OMPP is trying to make cuts that will affect patient care as little as possible.

In response to a question, Ms. Gifford told the Commission that OMPP already has the authority to make a 5% cut in hospital costs and is accomplishing this through the rebasing of the system. Ms. Gifford stated that OMPP has had discussions with representatives of the hospital industry through the rebasing efforts and that the rebasing and accompanying cuts should take effect in mid-September.

Responding to a question regarding pharmacist reimbursement cuts, Ms. Gifford stated that OMPP's strategy in reducing the spending on drugs has two components: (1) prior authorization of drugs; and (2) pharmacist dispensing fee cuts. Prior authorization is currently under review by the Drug Utilization Review Board and will probably not go into effect until January, 2002. Cuts in reimbursement to pharmacists will go into effect in September. In response to a question concerning the effect this will have on pharmacists, Ms. Gifford stated that OMPP does not have data reflecting the pharmacy industry's acquisition costs but acknowledged that the pharmacy industry has predicted a 30% resulting decrease.

Ms. Gifford informed the Commission that OMPP did propose a rule that would have eliminated adult denture coverage but that the FSSA advisory committee returned the proposal without approving or disapproving the rule. Accordingly, OMPP is not currently proceeding with a cut in denture coverage.

In response to a question about whether OMPP has considered cuts in administrative costs, Ms. Gifford stated that administrative costs are increasing because of the increase in responsibilities OMPP has been given. Ms. Gifford commented that OMPP's administrative costs are only 3.5% to 4% which is much lower than administrative costs in the commercial insurance industry. Ms. Gifford told the Commission that OMPP is not currently proposing any cuts in member services and that the cuts proposed affect the providers.

The Commission requested that Ms. Gifford provide the Commission with a calculation of the percentage of the whole Medicaid budget that will result from a reduction in costs in the following categories: pharmacists, hospitals, and nursing facilities.

Ms. Gifford responded to a question concerning the nursing facility budget, stating that the projected spending for nursing facilities for 2002 is an incurred claim estimate of \$878.6 million, 38% of which is state money. In response to a question concerning an estimate by representatives of nursing facilities of \$812 million, Ms. Gifford stated that OMPP's incurred claim estimate for nursing facilities in 2001 was \$826 million which was pretty close to the actual \$823 to \$824 million "out the door" costs for 2001.

Judith Becherer, OMPP

Ms. Judith Becherer responded to a question from the Commission concerning the differences between the nursing facility representatives and OMPP projected spending costs in 2002 for nursing facilities. Ms. Becherer stated that OMPP explained to the nursing facility representatives how its calculations were figured. Ms. Becherer commented that OMPP included factors that the nursing facilities did not take into account.

Kathy Gifford, OMPP

In response to a question concerning advertising of the Children's Health Insurance Program (CHIP), Ms. Gifford stated that OMPP no longer runs television, radio or newspapers advertisements promoting the program. The program is promoted only through community outreach.

In response to a question regarding increases in fees for pediatricians, Ms. Gifford informed the Commission that OMPP does not currently have a plan to implement an increase in physician fees. Ms. Gifford stated that HEA 1001 allows an increase but does not mandate the increase since the bill uses the word "may".

When asked when OMPP's proposed cuts would go into effect, Ms. Gifford responded that prior authorization would probably not go into effect until January, 2002; pharmacist cuts would go into effect at the end of August or early September, 2001; hospital cuts would occur in September, 2001; and nursing facility cuts would take effect in October, 2001.

Judith Becherer, OMPP

OMPP was asked by the Commission whether OMPP can help long term care facilities who determine that it is necessary to close their businesses to phase out with dignity. Ms. Becherer responded that other states do have programs that help long term care facilities phase out. Ms. Becherer stated that OMPP has talked with long term care facilities about OMPP's need for waiver providers and has asked for help from these facilities.

Kathy Gifford, OMPP

In response to a question concerning SEA 309 (passed in 2001 concerning county-owned nursing facilities), Ms. Gifford stated that there are approximately 5 or 6 county-owned nursing facilities statewide and that OMPP is working on a state plan which would allow the state to draw down new federal dollars and is negotiating with Wishard and other providers about how the new money will be distributed. Ms. Gifford cited a \$10 million estimate in which the state would like to keep 90% of this money.

Ms. Gifford stated that OMPP is also working with a consultant to develop a state system that schools can use to submit claims that are eligible for federal Medicaid reimbursement (e.g. special education support and physical therapy services) pursuant to the MRDD waiver for reimbursement.

The Commission requested that OMPP consider possible 1115 demonstration project waivers or other federal leveraging opportunities that may exist to help the state address the high costs of the Indiana Comprehensive Health Insurance Association (ICHIA).

Tom Wilson, Chairman, Drug Utilization Review Board (DUR)

In response to a question regarding what the DUR Board was doing for education for providers concerning overutilization and over-prescribing of drugs, Mr. Tom Wilson stated that the DUR Board attempts to offer an ongoing educational program for health care providers concerning overutilization but that the Board is limited since it is an advisory committee and does not have rule-making authority.

Responding to a question about only requiring prior authorization for health care providers that have been determined to overprescribe drugs, Mr. Wilson stated that it would be difficult to single out a provider in this manner.

Steve Albrecht, Indiana Health Care Association

Mr. Steve Albrecht stated that OMPP has not offered an acceptable solution in OMPP's proposed cuts on long term care. (Mr. Albrecht's written testimony is provided as Exhibit 4.) Mr. Albrecht informed the Commission that long term care representatives have met with OMPP eight times. Although OMPP has modified its proposed rule concerning long term care cuts, this modified rule still results in a 5% cut that will directly impair a long term care provider's ability to offer quality care and could result in more closures of long term care facilities. Mr. Albrecht stated that there are alternatives still out there that need to be considered (e.g. certification of Indiana's Veteran's home for participation in the Medicaid program.) For more detailed information on alternatives offered by Mr. Albrecht, see Exhibit 4.

Grant Monahan, President, Indiana Retail Council

Mr. Grant Monahan stated that OMPP's proposed pharmacist cuts would result in a 35%-40% loss for pharmacists and would have a devastating impact on pharmacies. Mr. Monahan told the Commission that the proposed cut would place Indiana 45th in the country on pharmacy reimbursement.

Mr. Monahan stated that the pharmacy reimbursement rate is not what is raising the cost of drugs for the state of Indiana. Mr. Monahan told the Commission that the pharmacist reimbursement rate has not been changed since 1989 when the rate was cut. Mr. Monahan stated that a law requiring OMPP to conduct a cost survey before cutting pharmacist reimbursement rates was repealed in HEA 1001 in the 2001 session.

Larry Sage, Executive Vice President, Indiana Pharmacists Alliance

In response to a question concerning reimbursement based on actual acquisition costs instead of the average wholesale price (AWP), Mr. Larry Sage stated that most states use AWP in determining reimbursement and that it would be hard to use actual acquisition costs as a base for reimbursement.

Mr. Sage stated that OMPP's proposed pharmacist reimbursement cuts will result in a 33% reduction in the amount pharmacists are reimbursed. This cut will affect independent pharmacists who are often the only providers in rural communities.

Tim Kennedy, Indiana Hospital and Health Association (IHHA)

Mr. Tim Kennedy provided an overview of the funding problems facing ICHIA. Mr. Kennedy stated that there are two possible areas that should be considered concerning ICHIA funding: (1) the October, 2000, demonstration project on mental conditions; and (2) applying for an 1115 demonstration project waiver. Mr. Kennedy informed the Commission that CMS (formerly HCFA) has approved a Maine 1115 demonstration project waiver to cover Maine's AIDS/HIV residents and that Massachusetts and Wisconsin have passed legislation allowing their state agencies to pursue this option. Mr. Kennedy stated that moving AIDS patients to Medicaid so that the state could get a federal match for these patients may help ease the financial burden on ICHIA.

Mr. Kennedy stated that further research would have to be done to determine whether the state could: (1) use ICHIA assessments to cover the state's 1/3 share of Medicaid costs for AIDS patients who switch from ICHIA to Medicaid on an 1115 demonstration project waiver; or (2) reduce tax credits offered to HMO's and health plans that are assessed by ICHIA if the state implements an 1115 demonstration project waiver which would switch AIDS patients from ICHIA to Medicaid, thus reducing the ICHIA assessments.

Kathy Gifford, OMPP

In response to a question from the Commission concerning the drug formulary used in northern Indiana and whether this unfairly discriminates against residents living in that area, Ms. Gifford stated that the state has not chosen to use a state-wide formulary. Managed care contractors submit a proposed drug formulary to OMPP which should assure Indiana residents access to prescription drugs. OMPP allows a contractor to manage its program and holds each contractor accountable for its program. Ms. Gifford stated that it would be a big step for the state to develop and implement a state-wide formula.

OMPP was asked to provide the Commission with a list by county of prior approval drugs.

The next meeting was scheduled for August 22, 2001 at 10:30 a.m. The meeting was adjourned at 12:50 p.m.